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APR 22 2003

In re Application of
Paul M. McElfresh et al
Application No. 09/400,812
Filed: September 22, 1999
Attorney Docket No. 304-15027-US

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ON PETITION

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.137(b), filed May , 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 3, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 2001.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$920.00 extension of time submitted with the petition on May 1, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 2651 for processing of the request for continued examination (RCE) under 37 CFR 1.114 and the currently filed amendment.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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| REQUEST FOR PATENT FEE REFUND | | | | | | | | | | | |
|---|----------------|---|----------------------|----------------------|---|---|----|---|---|---|---|
| 1 Date of Request: <u>4-21-03</u> | | 2 Serial/Patent # <u>09/400,812</u> | | | | | | | | | |
| 3 Please refund the following fee(s): | 4 PAPER NUMBER | 5 DATE FILED | 6 AMOUNT | | | | | | | | |
| <input type="checkbox"/> Filing | | | \$ | | | | | | | | |
| <input type="checkbox"/> Amendment | | | \$ | | | | | | | | |
| <input checked="" type="checkbox"/> Extension of Time | 15 | 5/1/02 | \$ 920 ⁰⁰ | | | | | | | | |
| <input type="checkbox"/> Notice of Appeal/Appeal | | | \$ | | | | | | | | |
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| <input type="checkbox"/> Overpayment | | | | | | | | | | | |
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| <input checked="" type="checkbox"/> No Fee Due (Explanation): | | | | | | | | | | | |
| <i>Unnecessary</i> | | | | | | | | | | | |
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| 11 REFUND REQUESTED BY: | | | | | | | | | | | |
| TYPED/PRINTED NAME: <u>WAN Laymon</u> | | TITLE: <u>Ref. Exam</u> | | | | | | | | | |
| SIGNATURE: <u>Wan Laymon</u> | | PHONE: _____ | | | | | | | | | |
| OFFICE: _____ | | | | | | | | | | | |
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| APPROVED: <u>Alicia Kelly</u> | | DATE: <u>4/21/03</u> | | | | | | | | | |

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